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BRIAN C. McNEIL
EXECUTIVE SECRETARY

DATE:

December 24, 2001

AZ CORP COMMISSION
DOCUMENT CONTROL

DOCKET NO:

W-0224A-01-0802 et al.

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Teena Wolfe. The recommendation has been filed in the form of an Opinion and Order on:

MOHAWK WATER COMPANY
(CC&N)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

JANUARY 2, 2002

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Special Open Meeting to be held on:

JANUARY 8 AND 9, 2002

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

Arizona Corporation Commission

DOCKETED

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BRIAN C. McNEIL
EXECUTIVE SECRETARY

1
2 **BEFORE THE ARIZONA CORPORATION COMMISSION**

3 WILLIAM A. MUNDELL
4 CHAIRMAN

5 JIM IRVIN
6 COMMISSIONER

7 MARC SPITZER
8 COMMISSIONER

9 IN THE MATTER OF THE APPLICATION OF
10 MOHAWK WATER COMPANY FOR APPROVAL
11 OF THE SALE OF ASSETS AND
12 CANCELLATION OF ITS CERTIFICATE OF
13 CONVENIENCE AND NECESSITY.

DOCKET NO. W-02224A-01-0802

14 IN THE MATTER OF THE APPLICATION OF
15 ANDERSON BROTHERS FARMS, INC. dba
16 ANDERSON BROTHERS WATER COMPANY
17 FOR APPROVAL OF THE SALE OF ASSETS
18 AND CANCELLATION OF ITS CERTIFICATE OF
19 CONVENIENCE AND NECESSITY.

DOCKET NO. W-02558A-01-0803

OPINION AND ORDER

20 DATE OF HEARING:

December 13, 2001

21 PLACE OF HEARING:

Phoenix, Arizona

22 ADMINISTRATIVE LAW JUDGE:

Teena Wolfe

23 APPEARANCES:

James W. Little, President of Mohawk Water Company
and Anderson Brothers Farms, Inc., dba Anderson
Brothers Water Company; and

Mr. David Ronald, Staff Attorney, Legal Division, on
behalf of the Utilities Division of the Arizona
Corporation Commission.

BY THE COMMISSION:

24 On October 12, 2001, Mohawk Water Company ("Mohawk") filed an application with the
25 Arizona Corporation Commission ("Commission") to cancel its Certificate of Convenience and
26 Necessity ("CC&N") and to sell its assets to the Copper Mountain Ranch Community Facilities
27 District ("District"). Also on October 12, 2001, Anderson Brothers Farms, Inc., dba Anderson
28 Brothers Water Company ("Anderson Brothers") filed an application to cancel its Certificate and to
sell its assets to the District. Mohawk and Anderson are both Arizona public service corporations
engaged in the business of providing water utility service to the public in Pinal County, Arizona.
Mohawk operates a system serving approximately 150 customers, and is located 11 miles east of the

1 Town of Maricopa. Anderson's system serves approximately 80 customers, and is located to the
2 south of Mohawk's system, north of Stanfield and west of Casa Grande.

3 The Commission's Utilities Division Staff ("Staff") found both applications sufficient
4 pursuant to the requirements of A.A.C. R14-2-402 on October 29, 2001.

5 On November 1, 2001, Procedural Orders were issued setting the applications for hearing and
6 establishing other procedural deadlines.

7 Mohawk and Anderson provided their customers with notification of the applications and of
8 the hearings by U.S. Mail on November 12, 2001. No requests for intervention were filed.

9 On November 19, 2001, Staff filed a Motion to Consolidate Mohawk and Anderson's
10 applications, which was granted by Procedural Order on November 23, 2001.

11 On December 11, 2001, Staff filed a Staff Report on the consolidated applications
12 recommending Commission approval following a hearing.

13 A hearing was held as scheduled on the consolidated applications on December 13, 2001.
14 Mohawk, Anderson and Staff appeared and testified in support of the applications and the
15 recommendations in the Staff Report. No members of the public appeared at the hearing.

16 * * * * *

17 Having considered the entire record herein and being fully advised in the premises, the
18 Commission finds, concludes, and orders that:

19 **FINDINGS OF FACT**

20 1. Mohawk is an investor-owned public service corporation organized as an Arizona
21 Limited Liability Company and is engaged in the business of providing water utility service to the
22 public in Pinal County, Arizona pursuant to authority granted in Commission Decision No. 43162
23 (March 12, 1973). Mohawk currently serves approximately 150 customers.

24 2. Anderson is an investor-owned public service corporation organized as an Arizona
25 "C" Corporation and is engaged in the business of providing water utility service to the public in
26 Pinal County, Arizona pursuant to authority granted in Commission Decision No. 57281 (March 7,
27 1991). Anderson currently serves approximately 80 customers.

28 3. Both Mohawk and Anderson are owned and operated by Mr. James Little, who is

1 president of both companies.

2 4. Mohawk is located 11 miles east of the Town of Maricopa, and Anderson is located to
3 the south of Mohawk, north of Stanfield and west of Casa Grande.

4 5. On October 12, 2001, Mohawk filed an application requesting Commission authority
5 to sell its assets to the District and requesting that the Commission cancel its CC&N.

6 6. Also on October 12, 2001, Anderson filed an application requesting Commission
7 authority to sell its assets to the District and requesting that the Commission cancel its CC&N.

8 7. On October 29, 2001, Staff found both applications sufficient.

9 8. On November 1, 2001, Procedural Orders issued in both matters set the applications
10 for hearing and established other procedural deadlines.

11 9. Mohawk and Anderson provided their customers with notification of the applications
12 and of the date, time and location of the hearing by U.S. Mail on November 12, 2001, and filed
13 certification of that notice on December 5, 2001.

14 10. On November 19, 2001, Staff filed a motion to consolidate the two applications. The
15 motion was granted by Procedural Order on November 23, 2001.

16 11. No requests for intervention were filed, and Staff has received no complaints from
17 customers regarding the applications.

18 12. Staff filed a Staff Report on these consolidated matters on December 11, 2001,
19 recommending approval of the transfer of Mohawk and Anderson's assets to the District and
20 approval of the cancellation of Mohawk and Anderson's CC&Ns following a hearing.

21 13. The City of Casa Grande established the District on May 1, 2000.

22 14. The District, Mohawk and Anderson have entered into a purchase agreement whereby
23 the District will purchase the water utility assets of Mohawk and Anderson for their combined
24 appraised value of \$986,000.

25 15. After the purchase, the District will provide service to all of Mohawk's and
26 Anderson's customers.

27 16. Mohawk and Anderson owe no main extension agreement or line extension agreement
28 refunds to their customers.

1 17. According to the Staff Report, the District will assume all outstanding obligations of
2 the utilities or pay the liabilities in cash at the close of escrow.

3 18. Mr. Little testified that the customer deposits currently held by Mohawk and Anderson
4 will be transferred to the District.

5 19. Mr. Little will assist the District in the operation and management of the District for
6 two years following the sale of assets.

7 20. Mohawk and Anderson are both located in the Pinal Active Management Area, and
8 both are in compliance with Arizona Department of Water Resources' monitoring and reporting
9 requirements.

10 21. Mohawk and Anderson are both current on their tax obligations.

11 22. Mohawk and Anderson have had difficulty complying with Arizona Department of
12 Environmental Quality ("ADEQ") nitrate level limits. The companies jointly obtained WIFA
13 financing for the purpose of interconnecting the two systems in order to blend water to reduce the
14 total nitrate levels. The project was completed, and has received Approval of Construction from
15 ADEQ, but the project's completion has not resulted in satisfactory reductions in nitrate levels.

16 23. The District has located additional water production sources, and Mr. Little testified
17 that the District can utilize those sources to meet ADEQ requirements for water quality, including
18 requirements for nitrate, fluoride, and arsenic levels.

19 24. Staff believes that the District's access to lower cost capital than that available to
20 investor-owned utilities, the District's ability to develop higher quality water supplies, and the
21 District's access to additional expert personnel to service the systems ensures that Mohawk's and
22 Anderson's existing customers will receive service that is equal to or better than the current level of
23 service.

24 25. The existing customers of Mohawk and Anderson will obtain significant system
25 benefits from the District's acquisition of the two companies.

26 26. Staff recommends approval of the consolidated applications.

27 27. Staff's recommendation in Findings of Fact No. 27 is reasonable.

28 ...

CONCLUSIONS OF LAW

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2 1. Mohawk and Anderson are public service corporations within the meaning of Article
3 XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

4 2. The Commission has jurisdiction over Mohawk and Anderson and the subject matter
5 of the consolidated applications.

6 2. Notice of the applications was provided as required by law.

7 3. There is a continuing need for water utility service in Mohawk and Anderson's
8 certificated areas.

9 4. The District is a fit and proper entity that is ready, willing and able to assume the
10 responsibility of providing water utility service within Mohawk and Anderson's presently certificated
11 areas.

12 5. Staff's recommendation in Findings of Fact No. 27 should be adopted.

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ORDER

IT IS THEREFORE ORDERED that the applications of Mohawk Water Company and Anderson Brothers Farms, Inc., dba Anderson Brothers Water Company to sell their assets to the Copper Mountain Ranch Community Facilities District and to cancel their Certificates of Convenience and Necessity is hereby approved.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this ____ day of _____, 2002.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____

TW:mlj

SERVICE LIST FOR:

MOHAWK WATER COMPANY AND ANDERSON
BROTHERS FARMS, INC. DBA ANDERSON
BROTHERS WATER COMPANY

DOCKET NOS.:

W-02224A-01-0802 and W-02558A-01-0803

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